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ANNEXATION STUDY FOR



FOREST CITY, NORTH CAROLINA

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ANNEXATION STUDY FOR FOREST CITY,
NORTH CAROLINA

APRIL, 1973

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INTRODUCTION

The fringe areas of towns and cities are frequently the fastest growing portions of municipal areas. The primary and most obvious explanation of this phenomenon is that the amount of open and relatively inexpensive land is greater in these areas than within a city's corporate limits. This is certainly true in Forest City. The fringe areas of a city are of great importance because they are almost always a functional part of the city; and may, in time, be included in the city limits. Therefore, the municipalities should attempt to control the character of development in these fringe areas to insure their compatibility with the city's existing land use patterns. As these areas eventually become portions of the city, they must be provided with services that are necessary to the proper functioning of all densely populated areas. These services typically include public water and sewerage systems, regular garbage collection, street cleaning, police and fire protection, an efficient administrative staff to manage these services and any other service or facility that is provided to the residents of the municipality. If the fringe areas development bears no relationship to that of the city, it will be a great deal more expensive to provide these services to outside areas when they finally do become a part of the city.

In North Carolina the General Statutes aid the cities in determining the standard of development outside the city limits by granting authority for extraterritorial zoning and subdivision regulations. Once the fringe areas are developed, the city is permitted to assume a more permanent responsibility through the institution of annexation proceedings.

The development of centers such as Tri-City Mall (on U. S. 74 Bypass)

and adjacent large residential areas attest to the fact that the majority of new growth in the Forest City vicinity is occurring beyond the town limits, in areas where the acreages of open land are of sufficient size to encourage new growth. This report will show how Forest City can annex areas such as these, in order that the Town will enhance its tax base, provide a higher level of services to the residents of the areas, and will also be able to control development growth in these areas so as to help promote the general health, safety and welfare of the citizens.

PURPOSE

The purpose of this study is to investigate the feasibility for the Town of Forest City to annex various contiguous fringe areas which are now or will soon be developed primarily for urban purposes.

Reasons for Annexation

The following general reasons are offered for favoring the annexation of areas around the Town of Forest City that meet the statutory requirements provided that annexation does not impose financial hardships or inequities on residents or property owners of the original Town or of the areas to be annexed:

1. Police operations would be extended to the newly annexed areas, providing greater security to life and property not only from crime but from accidents and fire.

2. The Town would extend its refuse collection and disposal services to the newly annexed areas, providing a valuable convenience to residents, preventing the unsanitary and unsightly disposal of refuse on vacant lots and along public roadsides, and discouraging the burning of refuse in densely populated areas.

3. The Town would have street lights installed in the newly annexed areas, discouraging criminal activity and making night-time travel safer for both motorists and pedestrians.

4. The Town would extend its authority to inspect buildings in the annexed areas, and thus prevent the construction and occupancy of buildings that are structurally unsound.

5. The Town would be able to apply its Housing Code to the annexed areas. This code sets minimum standards for plumbing, heating, light and

privacy in dwellings to prevent people from living in conditions that are detrimental to their physical and mental health.

6. Annexation would increase the Town's total property value, adding the Town's legal debt capacity and increasing its ability to undertake the capital improvement projects that its citizens want.

7. The following reasons are put forth to justify the imposition of taxes that comes with annexation:

- a. The annexed property and its occupants would receive the benefits of the above services, financed by taxation;
- b. The presence of the Town of Forest City, (its resident population and the public services and public investment they have established and continue to maintain) is in part responsible for the high value of land outside the Town, especially in the unincorporated Cool Spring Township. It is, therefore, not unfair for the Town to impose some taxes on the value of this land through annexation.

8. Citizens that have moved to the suburbs outside a town (outside the corporate boundary) are often automatically disqualified from positions of civic leadership in that town. Many persons that could contribute valuable service to a multitude of Forest City's boards, commissions, and councils are no longer qualified Town residents. Human resources is a very important intangible aspect of a Town's well being and is, therefore, a reasonable consideration in a Town's analysis of areas to be annexed.

ROLE OF THE PLANNING AGENCY

Although the planning agency has no direct responsibility under the annexation statutes, it should be very much concerned with all governmental measures relating to growth of the Town, therefore, the planning agency should be prepared to study the desirability of annexing certain areas and to make recommendations to the Board of Commissioners. Usually, the planning agency makes the studies necessary to determine if the area meets statutory standards for annexation. It is toward this objective that the planning agency makes this report. The role of the planning agency in annexation does not end here. The areas proposed for annexation must mesh with the Town's other planning elements and policies, including the 1972 Land Development Plan. Annexation must be coordinated with improvements to community or public facilities.

METHODS OF ANNEXATION

There are three methods by which the Town of Forest City can extend its corporate limits; by petition, by local act of the General Assembly, and by following requirements passed by the 1959 General Assembly. Each method is presented below.

Petition. This is the oldest and simplest method. The Town Board of Forest City is authorized to annex, by ordinance, areas contiguous to the corporate limits if a petition signed by all owners of real property in the subject area is received. A public hearing is required to determine the sufficiency of the petition and to allow the Town Board to take action. The ordinance may become effective immediately or any time within six months after its adoption. In this method of annexation, the Town is under no obligation to provide municipal services such as water, sewer and other improvements unless the Town agrees to do so. However, initiation of this method rests solely with the property owner. All the Town Board can do is respond to the initiative of others.

Local Act of the General Assembly. To initiate annexation by this method, the Town Board adopts a resolution and contacts their State legislative representative to have the local annexation act introduced into the General Assembly. The act, if approved, may or may not require that municipal services be extended to the annexed area. The act could establish other special conditions such as the effective date or provide for an election in the area proposed for annexation. The adjacent Town of Spindale used this method for their 1972 annexation.

There are distinct advantages and disadvantages to this method. Its use is being discouraged by the General Assembly because the multitude of local acts slows the legislative process. For this reason, the Act of 1959, described next, was passed. And, of course, this method can be utilized only during a session of the General Assembly. There are certain situations when this is the most feasible method. If there is vacant land in several ownerships existing between the Town and the annexation site, this may be the only method that can be used. Another situation that may arise and prove this method advantageous is the delineation of corporate boundaries along strong physical land features such as a stream, railroad, or a major highway. The local act can, therefore, be used to redefine corporate limits when it is necessary to annex areas that would not qualify under the 1959 act described below.

The 1959 Act. This method provides definite advantages to both citizens of the annexed areas and to the municipalities. In the citizens' favor, the municipality must provide services and facilities equal to those provided the rest of the Town within a definite time limit. The advantage to the Town is that any contiguous area can be annexed if the area meets the degree of development standards of the 1959 Act.

The Act is divided into two parts; one part applies to municipalities with less than 5,000 population and the second part applies to municipalities of 5,000 or more population, according to the last federal census. Forest City, according to final figures released by the Bureau of the Census has a 1970 population of 7,179. In the back of this report, the full wording of the Act appears as Appendix I. A summary of the procedures and requirements follows which would apply to Forest City using the population count for 1970.

A. Procedures

1. Notice of Intent. The governing body of the municipality passes a resolution stating the intent of the municipality to consider annexation. The resolution describes the boundaries of the area under consideration and fixes the date of the public hearing. The date for the public hearing must not be less than thirty days and not more than sixty days following passage of the resolution.
2. Notice of Public Hearing. The notice fixing the date, hour, and place of the public hearing is published in a local newspaper once a week for at least four successive weeks prior to the date of the public hearing. The public notice also describes the boundaries of the subject area and indicates that a report described in Section B.1 below will be available at the office of the Town Clerk at least fourteen days prior to the date of the public hearing.
3. Public Hearing and Report Presented. The Town Board has the authority to amend the report and make changes in the plan for providing municipal services provided the changes meet the requirements of the Act.
4. Passage of the Annexation Ordinance. The ordinance must be passed no sooner than seven days and no later than sixty days after the public hearing. The effective date of the ordinance may be any date within twelve months from the date of the passage of the ordinance.
5. Recording the Map and Ordinance. It is the duty of the Mayor of Forest City to cause an accurate map of the annexed area and a copy of the ordinance, duly certified, to be recorded in the Office

of the Register of Deeds of Rutherford County, and in the Office of the Secretary of State of North Carolina.

B. Requirements

1. The Annexation Report and Plans. This report must be prepared to demonstrate Forest City's intent to extend services to the annexed area and to show that the area proposed for annexation meets the density requirements of the 1959 Act. Specifically, the report must contain three maps; a map of existing and proposed municipal boundaries, a map of existing major water mains and sewer interceptors and outfalls and the proposed extensions of such utility lines; and a map showing the general land use pattern in the area to be annexed. A statement must be made in the report on how the municipality plans to finance the extension of service. The report must also contain a statement showing that the area to be annexed meets the requirements of "Character of Area to be Annexed" as set forth in the 1959 Act and briefly described below.

2. Character of Area to be Annexed. The total area proposed for annexation must meet the following requirements:

- a. It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun;
- b. At least one-eighth of the aggregate external boundaries of the area must coincide with the municipal boundary;
- c. No part of the area shall be included within the boundary of another incorporated municipality. Additionally, the area proposed for annexation must be developed for urban purposes meeting one of the following criteria:

- (1) Has a total resident population equal to at least two persons for each acre of land; or
- (2) Has a total resident population equal to at least one person per acre and is subdivided into lots such that at least sixty percent of the total acreage consists of lots and tracts five acres or less in size and such that at least sixty percent of the total number of lots are one acre or less in size; or
- (3) Is so developed that at least sixty percent of the total number of lots in the area at the time of annexation are used for residential, commercial, industrial or governmental purposes, and is subdivided into lots such that at least sixty percent of the total acreage not counting the acreage used for commercial, industrial, institutional, or governmental purposes, consists of lots and tracts, five acres or less in size.

In addition to areas developed for urban purposes, the Town Board of Commissioners may include in the area to be annexed any area which does not meet the criteria outlined above if such area either:

- a. Lies between the Town boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the Town boundary or cannot be served by the municipality without extending services or utilities through such sparsely developed area; or
- b. Is adjacent on at least sixty percent of its external boundary, to any combination of municipal boundary, and the boundary of an area or areas developed for urban purposes as defined above.

3. Extension of Services. Annexed areas must be given police and fire protection, garbage collection and street maintenance equal to that provided the rest of Town. Within a year after the effective date of annexation, contracts must be let and construction begun on necessary extensions of major trunk water mains and sewer outfall lines into the Town servicing newly annexed areas.

ANNEXATION AREA MEETING THE REQUIREMENTS
OF THE 1959 ACT

The primary area meeting the requirements of the 1959 Act for Town-initiated annexation lies due west - southwest of Forest City. This area contains not only the greatest amount of urban development beyond the corporate limits; it also includes sections beyond the corporate limits where Forest City's Town Board has initiated the installation of public improvements, prior to the beginning of this report.

The general metes and bounds description of the area is as follows: beginning at a point 200 feet north of Oak Street Extension (S.R. 2182) and the present city limits, proceeding westerly (paralleling S.R. 2182) to a point due north of the northwestern boundary line of Tri-City Mall shopping center, thence proceeding southeasterly along said boundary line to Allen Drive, thence southeasterly along boundary line of the lots facing the southwest side of Allen Drive, thence southwesterly along the rear of the lots facing the northwest side of Butler Road (S.R. 2179), thence across Piney Ridge Road (but 200 feet southwest of the road) to a point 200 feet southwest of Piney Ridge Road, thence, on a line perpendicular to Piney Ridge Road, across the Road to a point at the intersection of Piney Ridge Road and the rear lot lines of the lots facing Robinhood Lane (on the south side of the lane), thence proceeding easterly and southeasterly along said rear lot lines to a point directly south of the platted east end of Robinhood Lane, thence north approximately 900 feet to intersect the present Forest City corporate limits, thence northwesterly along the corporate limit line to point of beginning. Refer to Map 1 for a graphic description of this area.

This area is vitally important to Forest City's future residential and commercial development because this area contains Tri-City Mall shopping center and Sherwood Forest subdivision. This area is the most densely developed area beyond the corporate limits, and Tri-City Mall already has Town water service, sewer service, and electric power. Therefore, this area should receive first priority from Forest City for any annexation program. Other sections having annexation potential for future years will be described later in this report, but detailed information for this given area will be presented first, because, according to the 1959 Act, only this area qualifies for annexation at present.

The following discussion will stipulate, for the purposes of the 1959 Act, the conditions to be met for annexation, and the qualifications of the Southwest Area, relative to these conditions.

ANNEXATION REPORT

Character of the Area to be Annexed

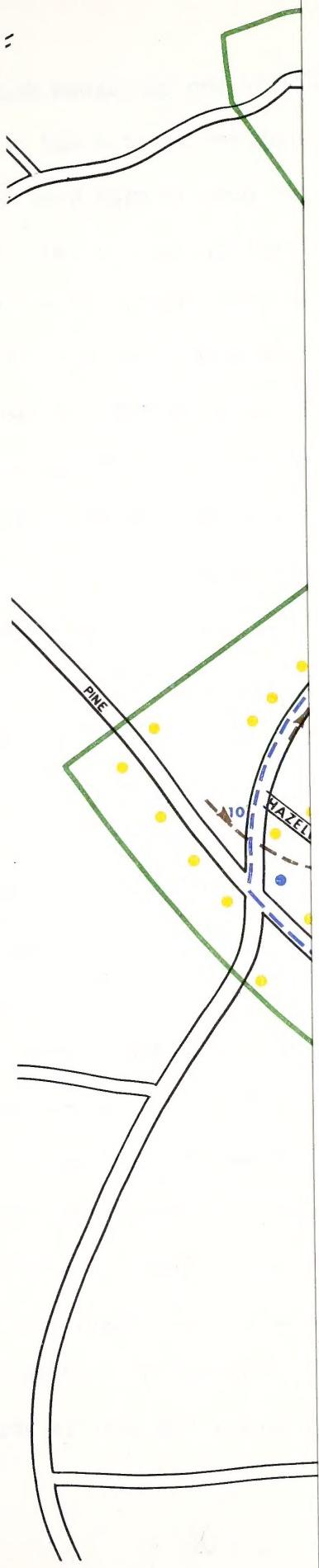
The requirements of the 1959 Annexation Act with the conditions met are as follows: (Note: the conditions met are designated with an asterisk)

S 160-453.16. Character of area to be annexed. -- (a) A municipal governing board may extend the municipal corporate limits to include any area.

- (1) Which meets the general standards of subsection (b), and
 - (2) Every part of which meets the requirements of either subsection (c) or subsection (d).
- (b) The total area to be annexed must meet the following standards:
- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- *(1) See Map 1. The area is contiguous to the corporate boundaries of Forest City.
- (2) At least one-eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (2) The total aggregate external boundary of this area is 15,400 feet.

The length of this boundary coinciding with the present municipal boundary is 4,000 feet. The percentage of the total boundary coinciding with the municipal boundary is 25, giving a ratio of $\frac{1}{4}$, which exceeds the required minimum of $1/8$.

- (3) See Map 1. No part of the area is within another municipality.
- (c) Part of all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any

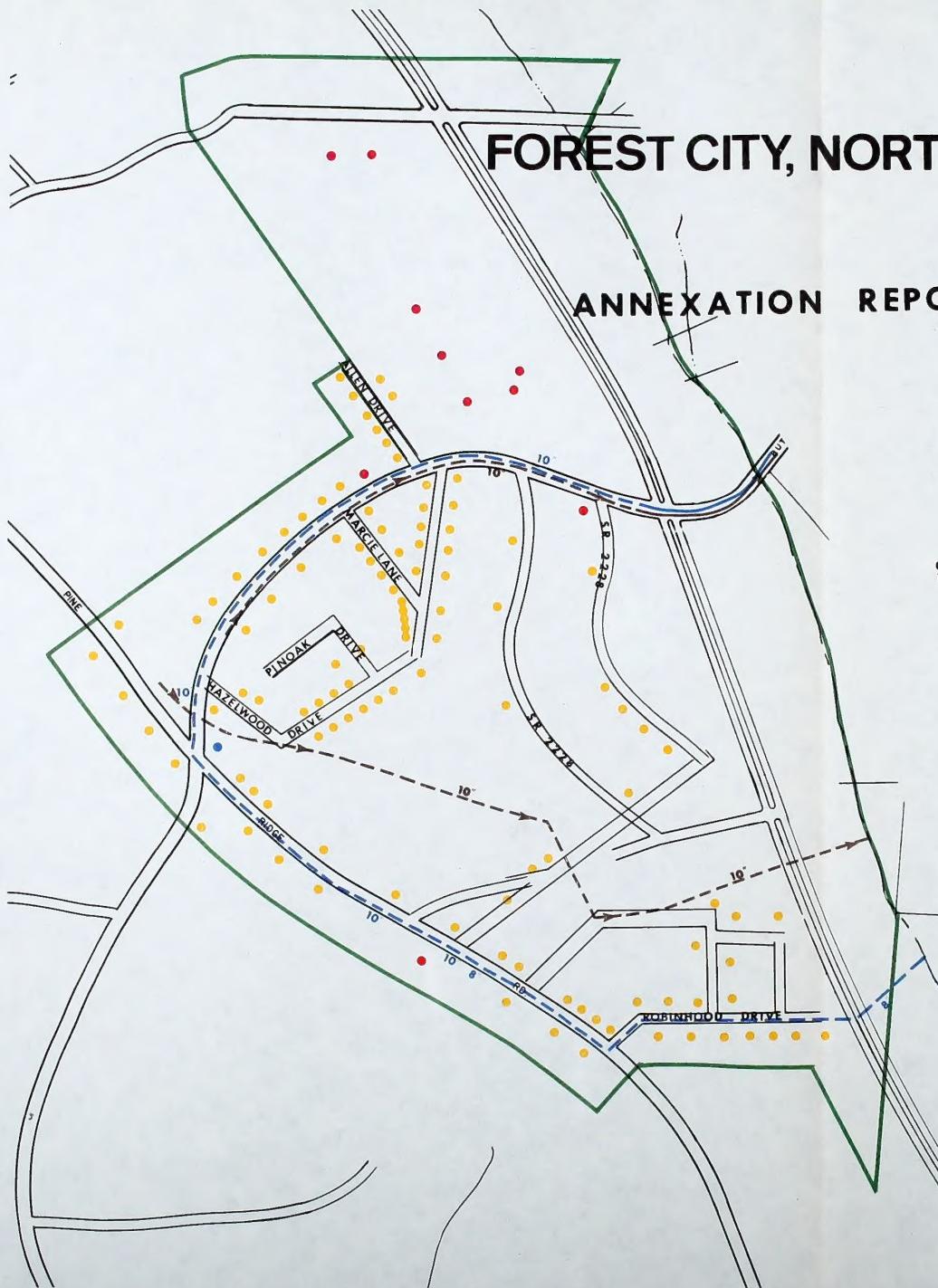


ANATOMICAL
STUDY

15. JUN. 1933

FOREST CITY, NORTH CAROLINA

ANNEXATION REPORT MAP



EXISTING LAND USE

LEGEND

- RESIDENTIAL
- MULTI-FAMILY
- COMMERCIAL
- INDUSTRIAL

PROPOSED UTILITIES

- EXISTING WATER LINES
- - - PROPOSED WATER LINES
- EXISTING SEWER LINES
- - - PROPOSED SEWER LINES
- Direction of flow
- BOUNDARY OF ANNEXATION AREA

area which meets any one of the following standards:

- (1) Has a total resident population equal to at least two persons for each acre of land included within its boundaries; or
- (2) Has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage consists of lots and tracts five acres or less in size and such that at least sixty percent (60%) of the total number of lots and tracts are one acre or less in size; or
- (3) Is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

*(2) This area exceeds the requirements as stipulated in number (2) above. First, the area contains 235 acres, and the estimated population in this area is 346. (This is derived by counting the number of dwelling units in the area, and multiplying this number by 3.1, the average family size per dwelling unit in Forest City according to the 1970 census, as published by the Bureau of the Census). The ratio of population per acres is, therefore, higher than an average of one, the minimum average allowed for in (2) above. In addition, 72 percent of the total acreage (235 acres) consists of lots and tracts five acres or less in size. This percentage

surpasses the required 60 percent (60%) of lots and tracts needed to be of one acre or less in size.

(e) In fixing new municipal boundaries, a municipal governing board shall, wherever practicable, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality land on both sides of the street and such outside boundary may not extend more than 200 feet beyond the right of way of the street.

*(e) See Map 1. The boundaries, as shown on the map, follow the guidelines as described in (e) above.

PLANS FOR PROVIDING PUBLIC SERVICES

The plans for the provision of public services in the area proposed for annexation will be described below, with proper reference given to Map 1, where required. The statutory requirements are presented first, as follow, and the needed public service extension proposal will be presented after the requirement, depicted by an asterisk:

* § 160-453.15. Prerequisites to annexation; ability to serve; report and plans.

- A municipality exercising authority under this part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in § 160-453.17, prepare a report setting forth such plans to provide services to such area. The report shall include:

(1) A map or maps of the municipality and adjacent territory to show the following information:

- a. The present and proposed boundaries of the municipality.
- b. The present, major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains and outfalls as required in subdivision (3) of this section.
- c. The general land use pattern in the area to be annexed.

(1) See Map 1. The information required by a., b., and c. is shown on this map.

(2) A statement showing that the area to be annexed meets the requirements of § 160-453.16.

- (2) The following part of this section meets this requirement.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
- a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as water lines are made available in such area under existing municipal policies for the extension of water lines.
- (3) a. Police protection, fire protection, garbage collection and street maintenance services will be provided. Specifically, the Police Department and Fire Department will extend public safety service immediately upon annexation. The Sanitation Department will also provide garbage pickup service, according to Town policy for residents and commercial property presently within the corporate limits. Regarding street maintenance, the Street Department will take over maintenance of S.R. 2228 (.70 miles), and S.R. 2222 (.20 miles). These two roads are the only local subdivision streets maintained by the N. C. State Highway Commission in the area proposed for annexation. These streets are gravel; the Town will maintain these streets as

gravel streets until the Town and residents may choose to have those streets paved, according to Town policy. In addition, there are 1.21 miles of non-state local subdivision streets that will be maintained by the Forest City Street Department, according to the present type of surface. Paved surface consists of 1,600 linear feet, and 4,800 linear feet consist of gravel streets. The rights-of-way are at least 40 feet, which is required by the Town, according to the Town street acceptance policy. The Town will immediately accept all non-state platted subdivision streets (the 1.20 miles herein described), and Town acceptance of Secondary Roads 2228 and 2222 are contingent upon being given up to the Town by the State Highway Commission. Regarding street light installation, the Town will install street lights 250 feet apart (every other pole) on streets (including all State Roads, except U. S. 74 Bypass) where development is existing. This installation will require 347 street lights. The lights will be rented by the Town from Duke Power. Regarding fire protection before extension of water service, the Town Fire Department has adequate tankage available for the shipment of water to a fire in an unserviced area. It should be noted at this time that Tri-City Mall shopping center (included within the annexation area) has Forest City water service, and hydrant coverage.

b. Provide for extension of major trunk water mains and sewer outfall lines into the area to be annexed so that when such lines are constructed, property owners in the area to be annexed will be able to secure public water and sewer service, according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.

b. See Map 1. Trunk water mains will be extended southwest along Butler Road, southeast along Piney Ridge Road, thence east along Robinhood Drive (a non-state local subdivision street), to the Town Limits. These mains will total 7,200 feet of water line; 4,800 feet of ten-inch pipe and 2,400 feet of eight-inch pipe. This system of mains will encompass the unserved portion of the area proposed for annexation (Tri-City Mall shopping center is presently served with Town water service). Two trunk sewer mains will be constructed, in order to offer sewer service to the area proposed for annexation. These trunk lines are shown on Map 1. They will total 6,300 linear feet of ten-inch sewer line. As the need arises, extensions into individual lots and subdivisions for both water and sewer service will be available, according to Town policy for extending such lines.

c. If extension of major trunk water mains and sewer outfall lines into the area to be annexed is necessary, set forth a proposed timetable for construction of such mains and outfalls as soon as possible following the effective date of annexation. In any event, the plans shall call for contracts to be let and construction to begin within twelve months following the effective date of annexation.

*c. Contracts will be let for construction of the proposed water and sewer trunk lines to be under construction within a year after the effective date of annexation. This date shall be determined upon completion of the required public hearing.

d. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed.

*d. The extension of services into the newly annexed area will be paid for from the Town general fund, except for streets services. These

costs will be paid for through the added mileage of new streets accruing through the Powell Bill allocation for Forest City.

The costs for extending water and sewer service are estimated as follows:

(Costs estimated by using current figures supplied by Town Public Works Chief).

<u>Water Service</u>	<u>Cost</u>
4,800 feet of 10" water line.....	\$43,200.00
2,400 feet of 8" water line.....	18,000.00
seven fire hydrants (one thousand feet apart, according to city policy).....	<u>2,336.00</u>
Total - water service extensions.....	\$63,536.00

<u>Sewer Service</u>	
6,300 feet of 10" sewer line.....	\$37,800.00

Note: These cost estimates are "in place" estimates; labor cost is included: (End of Annexation Report, as required by the 1959 Act)

OTHER AREAS NEEDING FUTURE ANNEXATION

Although no other area surrounding Forest City presently "qualifies" for annexation under the 1959 Act, at this time, there are definite development trends taking place in many contiguous areas that the Town may find possible to annex, if present development trends continue. Areas which have annexation potential should be kept in mind by the Town Board and City Manager at the time when periodic plans are developed for future expansions of utilities, in order that the potential for increased utility coverage will be considered when future service areas are delineated. This consideration of possible annexation areas should be carried out so that when these areas are considered for annexation, the utility service delivery system of Forest City will be able to serve annexation areas with the least expense for planning and construction.

The following areas, according to present growth trends, should be periodically evaluated for the possibility of qualifying for annexation. As stated earlier in this report, these areas are not yet developed to a degree where the Town can initiate the annexation procedure, according to the 1959 Act. Map 2 delineates possible annexation areas for future consideration.

Areas for Potential Annexation

- (1) Withrow Road Area - bounded by the Town limits on the north and east, and by a line extending south from S.R. 2186 to S.R. 2184 (west boundary). South boundary is Piney Ridge Road, and the area considered for present annexation bounds this potential area on the southeast. Within this area, the Town maintains a 16" trunk sewer line (up Bracketts Creek), a new

FOREST CITY, NORTH CAROLINA

2035 A.M.C. 3



POTENTIAL ANNEXATION AREAS

LEGEND

- [Green Box] AREA DESCRIBED IN DETAIL ON MAP 1
- [Green Line] AREA BOUNDARY OF POTENTIAL ANNEXATION
- [Black Line] EXISTING SEWER LINE
- [Black Line] EXISTING WATER LINE
- [Red Line] EXISTING TOWN POWER LINE
(Duke Power serves rest of area)

Note: Map shows general development factors only, not detailed land use.



six-inch water main (southwest on Withrow Road to S.R. 2184, at U.S. 74 Bypass), and an electric power line paralleling Withrow Road to S.R. 2184. The Aeroquip Corporation is located in this area, as are the following proposed developments: a new Southern Bell Telephone office on Withrow Road; a new State Highway Patrol Station adjacent to the new telephone company office; and Mountain Brook Subdivision, a new subdivision consisting of 56 lots on both sides of Withrow Road, east of Bracketts Creek. Future industrial development is expected on both sides of Withrow Road west of Bracketts Creek, since this land (between the creek and the new telephone office) and Mountain Brook Subdivision are under one ownership (S. Land Company), and the deed stipulates industrial development west of Bracketts Creek, and residential development east of Bracketts Creek.

(2) Crestview Area - this area is bounded by Sherwood Forest subdivision on the northwest, the present Town limits on the north and northeast, and Piney Ridge and Sulphur Springs Roads on the southwest and southeast. This area is larger than the actual Crestview Subdivision, after which it is named in this report. This area contains three platted subdivisions, and U.S. 74 Bypass and Church Road is proposed to have an Ingles supermarket built within the next year.

Therefore, this area should also be considered for annexation when the area develops to a level that the Town may annex it under the 1959 Act. A 16" sewer line can serve this area, which is in the Bracketts Creek watershed.

(3) Forest Lake Area - this area is bounded on the south by the Town limits, and the northwest by Smith Grove Road, and on the northeast by S.R. 1586. The Forest Lake Subdivision, and another subdivision near

S.R. 1587 (along Hudlow Road) are being developed in this area. The soils and topography in this area are conducive to continued development, as is shown in the 1972 Forest City Land Development Plan, and the Plan proposes continued medium-density residential development for this area. A major public investment in water and sewer service would have to be made in order to serve this area. However, this area should still be considered for future annexation, since this area is continuing to develop, and rapidly. The housing in this area is predominantly upper-middle income in nature, and this trend should continue for this area.

The foregoing three areas should be considered for annexation by 1980 since development trends in these areas depict a level of urbanization qualifying for annexation by 1980, as shown in the 1972 Forest City Land Development Plan and the 1968 Rutherford County Sewer and Water Plan.* Therefore, these areas should be considered in any plans for utilities developed between now and 1980.

*Moore-Gardner Associates, Asheboro, N. C. 1968.

ENVIRONMENTAL CONSIDERATIONS

Pursuant to the requirements and guidelines of the National Environmental Protection Act, the Council on Environmental Quality, the U. S. Department of Housing and Urban Development, and the State Environmental Policy Act, the following is a summary of environmental considerations regarding the Annexation Study for Forest City, North Carolina.

1. Abstract. Much growth has taken place in the Forest City area in recent years which has required the Town to consider additional annexation and generally strengthen their economic base.
2. Environmental Impact. This study will have a beneficial impact on the environment through better controls on land use, density and bulk, on requirements for adequate water and sewer for all structures. The study will insure compatible land use.
3. Adverse environmental impact which cannot be avoided. The study amendments will not create any adverse environmental impact.
4. Alternatives. The only other feasible alternative would be to allow adjacent areas to grow and compete with the Town on economic, social, and political basis. This alternative would not produce satisfactory land development controls.
5. Relationship between the local short-term uses of the environment and the maintenance and enhancement of long-term productivity. The proposed amendments will provide land use, density and bulk controls over land development taking place in the foreseeable future thereby protecting and enhancing important natural resources including recreation and open space for many years to come.

6. Irreversible and irretrievable commitments of resources. This study will help direct the commitment of resources in a constructive manner.
7. Applicable federal, state and local environmental controls. This study reflects governmental controls and standards regarding water supply and sewage disposal (lot area requirements) for all types of development.
8. Mitigation measures proposed to minimize impact. One of the purposes of the study is to minimize the impact of development on the natural environment through the regulation of land use, density and bulk.

APPENDIX

(THE 1959 ACT)

(Annexation Statutes and Procedures for Forest City)

Part 3. Municipalities of 5,000 or More.

s 160-453.13. Declaration of policy. -- It is hereby declared as a matter of State policy:

- (1) That sound urban development is essential to the continued economic development of North Carolina;
- (2) That municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensively used for residential, commercial, industrial, institutional and governmental purposes or in areas undergoing such development;
- (3) That municipal boundaries should be extended in accordance with legislative standards applicable throughout the State, to include such areas and to provide the high quality of governmental services needed therein for the public health, safety and welfare;
- (4) That new urban development in and around municipalities having a population of five thousand (5,000) or more persons is more scattered than in and around smaller municipalities, and that such larger municipalities have greater difficulty in expanding municipal utility systems and other service facilities to serve such scattered development, so that the legislative standards governing annexation by larger municipalities must take these facts into account if the objectives set forth in this section are to be attained;
- (5) That areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation.

s 160-453.14. Authority to annex. -- The governing board of any municipality having a population of five thousand (5,000) or more persons according to the last federal decennial census may extend the corporate limits of such municipality under the procedure set forth in this part.

s 160-453.15. Prerequisites to annexation; ability to serve; report and plans. -- A municipality exercising authority under this part shall make plans for the extension of services to the area proposed to be annexed

and shall, prior to the public hearing provided for in § 160-453.17, prepare a report setting forth such plans to provide services to such area.

The report shall include:

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains and outfalls as required in subdivision (3) of this section.
 - c. The general land use pattern in the area to be annexed.
- (2) A statement showing that the area to be annexed meets the requirements of § 160-453.16.
- (3) A statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation. Specifically, such plans shall:
 - a. Provide for extending police protection, fire protection, garbage collection and street maintenance services to the area to be annexed on the date of annexation on substantially the same basis and in the same manner as such services are provided within the rest of the municipality prior to annexation. If a water distribution system is not available in the area to be annexed, the plans must call for reasonably effective fire protection services until such time as water lines are made available in such area under existing municipal policies for the extension of water lines.
 - b. Provide for extension of major trunk water mains and sewer outfall lines into the area to be annexed so that when such lines are constructed, property owners in the area to be annexed will be able to secure public water and sewer service, according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.
 - c. If extension of major trunk water mains and sewer outfall lines into the area to be annexed is necessary, set forth a proposed timetable for construction of such mains and outfalls as soon as possible following the effective date of annexation. In any event, the plans shall call for contracts to be let and construction to begin within twelve months following the effective date of annexation.
 - d. Set forth the method under which the municipality plans to finance extension of services into the area to be annexed.

§ 160-453.16 Character of area to be annexed. -- (a) A municipal governing board may extend the municipal corporate limits to include any area

- (1) Which meets the general standards of subsection (b), and
- (2) Every part of which meets the requirements of either subsection (c) or subsection (d).

(b) The total area to be annexed must meet the following standards:

- (1) It must be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding is begun.
- (2) At least one eighth of the aggregate external boundaries of the area must coincide with the municipal boundary.
- (3) No part of the area shall be included within the boundary of another incorporated municipality.

(c) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

- (1) Has a total resident population equal to at least two persons for each acre of land included within its boundaries; or
- (2) Has a total resident population equal to at least one person for each acre of land included within its boundaries, and is subdivided into lots and tracts such that at least sixty per cent (60%) of the total acreage consists of lots and tracts five acres or less in size and such that at least sixty per cent (60%) of the total number of lots and tracts are one acre or less in size; or
- (3) Is so developed that at least sixty per cent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional or governmental purposes, and is subdivided into lots and tracts such that at least sixty per cent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts five acres or less in size.

(d) In addition to areas developed for urban purposes, a governing board may include in the area to be annexed any area which does not meet the requirements of subsection (c) if such area either:

- (1) Lies between the municipal boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services and/or water and/or sewer lines through such sparsely-developed area; or
- (2) Is adjacent, on at least sixty per cent (60%) of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (c).

The purpose of this subsection is to permit municipal governing boards to extend corporate limits to include all nearby areas developed for urban purposes and where necessary to include areas which at the time of annexation are not yet developed for urban purposes but which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes.

(e) In fixing new municipal boundaries, a municipal governing board shall, wherever practical, use natural topographic features such as ridge lines and streams and creeks as boundaries, and if a street is used as a boundary, include within the municipality land on both sides of the street and such outside boundary may not extend more than 200 feet beyond the right of way of the street.

§ 160-453.17. Procedure for annexation. -- (a) Notice of Intent.--

Any municipal governing board desiring to annex territory under the provisions of this part shall first pass a resolution stating the intent of the municipality to consider annexation. Such resolution shall describe the boundaries of the area under consideration and fix a date for a public hearing on the question of annexation, the date for such public hearing to be not less than thirty days and not more than sixty days following passage of the resolution.

(b) Notice of Public Hearing.--The notice of public hearing shall

- (1) Fix the date, hour and place of the public hearing.
- (2) Describe clearly the boundaries of the area under consideration.
- (3) State that the report required in § 160-453.15 will be available at the office of the municipal clerk at least fourteen days prior to the date of the public hearing.

Such notice shall be given by publication in a newspaper having general circulation in the municipality once a week for at least four successive weeks prior to the date of the hearing. The period from the date of the first publication to the date of the last publication, both dates inclusive, shall be not less than twenty-two days including Sundays, and the date of the last publication shall be not more than seven days preceding the date of public hearing. If there be no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for thirty days prior to the date of public hearing.

(c) Action Prior to Hearing. -- At least fourteen days before the date of the public hearing, the governing board shall approve the report provided for in § 160-453.15, and shall make it available to the public at the office of the municipal clerk. In addition, the municipality may prepare a summary of the full report for public distribution.

(d) Public Hearing. -- At the public hearing a representative of the municipality shall first make an explanation of the report required in § 160-453.15. Following such explanation, all persons resident or owning property in the territory described in the notice of public hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(e) Passage of the Annexation Ordinance. -- The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by § 160-453.15 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of § 160-453.15. At any regular or special meeting held no sooner than the seventh day following the public hearing, the governing board shall have authority to adopt an ordinance extending the corporate limits of the municipality to include all, or such part, of the area described in the notice of public hearing which meets the requirements of § 160-453.16 and which the governing board has concluded should be annexed. The ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of § 160-453.16. The external boundaries of the area to be annexed shall be described by metes and bounds. In showing the application of § 160-453.16 (c) and (d) to the area, the governing board may refer to boundaries set forth on a map of the area and incorporate same by reference as a part of the ordinance.

- (2) A statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by § 160-453.15.
- (3) A specific finding that on the effective date of annexation the municipality will have funds appropriated in sufficient amount to finance construction of any major trunk water mains and sewer outfalls found necessary in the report required by § 160-453.15 to extend the basic water and/or sewer system of the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds must be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.
- (4) Fix the effective date of annexation. The effective date of annexation may be fixed for any date within twelve months from the date of passage of the ordinance.

(f) Effect of Annexation Ordinance.--From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality. The newly annexed territory shall be subject to municipal taxes levied for the fiscal year following the effective date of annexation. Provided that annexed property which is a part of a sanitary district, which has installed water and sewer lines, paid for by the residents of said district, shall not be subject to that part of the municipal taxes levied for debt service for the first five years after the effective date of annexation. If this proviso should be declared by a court of competent jurisdiction to be in violation of any provision of the federal or State Constitution, the same shall not affect the remaining provisions of this part. If the effective date of annexation falls between January 1 and June 30, the municipality shall, for purposes of levying taxes for the fiscal year beginning July 1 following the date of annexation, obtain from the county a record of property in the area being annexed which was listed for taxation as of said January 1. If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, then businesses in the area to be annexed shall be liable for taxes imposed in such ordinances from and after the effective date of annexation.

(g) Simultaneous Annexation Proceedings.--If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this part for the annexation of such areas.

(g) Simultaneous Annexation Proceedings. -- If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this part for the annexation of such areas.

(h) Remedies for Failure to Provide Services. -- If, not earlier than one year from the effective date of annexation, and not later than fifteen

months from the effective date of annexation, any person owning property in the annexed territory shall believe that the municipality has not followed through on its service plans adopted under the provisions of §§ 160-453.15 (3) and 160-453.17 (e), such person may apply for a writ of mandamus under the provisions of article 40, chapter 1 of the General Statutes. Relief may be granted by the judge of superior court

- (1) If the municipality has not provided the services set forth in its plan submitted under the provisions of § 160-453.15 (3) a on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation, and
- (2) If at the time the writ is sought such services set forth in the plan submitted under the provisions of § 160-453.15 (3) a are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the judge of superior court

- (1) If the plans submitted under the provisions of § 160-453.15 (3) c require the construction of major trunk water mains and sewer outfall lines and
- (2) If contracts for such construction have not yet been let.

If a writ is issued, costs in the action, including a reasonable attorney's fee for such aggrieved person, shall be charged to the municipality.

§ 160-453.18. Appeal. -- (a) Within thirty days following the passage of an annexation ordinance under authority of this part, any person owning property in the annexed territory who shall believe that he will suffer material injury by reason of the failure of the municipal governing board to comply with the procedure set forth in this part or to meet the requirements set forth in § 160-453.16 as they apply to his property may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board.

(b) Such petition shall explicitly state what exceptions are taken to the action of the governing board and what relief the petitioner seeks. Within five days after the petition is filed with the court, the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within fifteen days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the municipality shall transmit to the reviewing court

- (1) A transcript of the portions of the municipal journal or minute book in which the procedure for annexation has been set forth and
- (2) A copy of the report setting forth the plans for extending services to the annexed area as required in § 160-453.15.

(d) If two or more petitions for review are submitted to the court, the court may consolidate all such petitions for review at a single hearing, and the municipality shall be required to submit only one set of minutes and one report as required in subsection (c).

(e) At any time before or during the review proceeding, any petitioner or petitioners may apply to the reviewing court for an order staying the operation of the annexation ordinance pending the outcome of the review. The court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

(f) The court shall fix the date for review of annexation proceedings under this chapter, which review date shall preferably be within thirty days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. The court may hear oral arguments and receive written briefs, and may take evidence intended to show either:

- (1) That the statutory procedure was not followed or
- (2) That the provisions of § 160-453.15 were not met, or
- (3) That the provisions of § 160-453.16 have not been met.

(g) The court may affirm the action of the governing board without change, or it may:

- (1) Remand the ordinance to the municipal governing board for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners.
- (2) Remand the ordinance to the municipal governing board for amendment of the boundaries to conform to the provisions of § 160-453.16 if it finds that the provisions of § 160-453.16 have not been met: provided, that the court cannot remand the ordinance to the municipal governing board with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service.
- (3) Remand the report to the municipal governing board for amendment of the plans for providing services to the end that the provisions of § 160-453.15 are satisfied.

If any municipality shall fail to take action in accordance with the court's instructions upon remand within three months from receipt of such instructions, the annexation proceeding shall be deemed null and void.

(h) Any party to the review proceedings, including the municipality, may appeal to the Supreme Court from the final judgment of the superior court under rules of procedure applicable in other civil cases. The appealing party may apply to the superior court for a stay in its final determination, or a stay of the annexation ordinance, whichever shall be appropriate, pending the outcome of the appeal to the Supreme Court; provided, that the superior court may, with the agreement of the municipality, permit annexation to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into the city without regard to any part of the area concerning which an appeal is being made.

(i) If part or all of the area annexed under the terms of an annexation ordinance is the subject of an appeal to the superior or Supreme Court on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the date of the final judgment of the superior or Supreme Court, whichever is appropriate, or the date the municipal governing board completes action to make the ordinance conform to the court's instructions in the event of remand.

§ 160-453.19. Annexation recorded. -- Whenever the limits of a municipality are enlarged in accordance with the provisions of this part, it shall be the duty of the mayor of the municipality to cause an accurate map of such annexed territory, together with a copy of the ordinance duly certified, to be recorded in the office of the register of deeds of the county or counties in which such territory is situated and in the office of the Secretary of State.

S 160-453.20. Authorized expenditures. -- Municipalities initiating annexations under the provisions of this part are authorized to make expenditures for surveys required to describe the property under consideration or for any other purpose necessary to plan for the study and/or annexation of unincorporated territory adjacent to the municipality. In addition, following final passage of the annexation ordinance, the annexing municipality shall have authority to proceed with expenditures for construction of water and sewer lines and other capital facilities and for any other purpose calculated to bring services into the annexed area in a more effective and expeditious manner prior to the effective date of annexation.

S 160-453.21. Definitions. -- The following terms where used in this part shall have the following meanings, except where the context clearly indicates a different meaning:

- (1) "Contiguous area" shall mean any area which, at the time annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right of way of a railroad or other public service corporation, lands owned by the city or some other political subdivision, or lands owned by the State of North Carolina.
- (2) "Used for residential purposes" shall mean any lot or tract five acres or less in size on which is constructed a habitable dwelling unit.

S 160-453.22. Population and land estimates. -- In determining population and degree of land subdivision for purposes of meeting the requirements of § 160-453.16, the municipality shall use methods calculated to provide reasonably accurate results. In determining whether the standards set forth in § 160-453.16 have been met on appeal to the superior court under § 160-453.18, the reviewing court shall accept the estimates of the municipality:

- (1) As to population, if the estimate is based on the number of dwelling units in the area multiplied by the average family size in such area, or in the township or townships of which such area is a part, as determined by the last preceding federal decennial census; or if it is based on a new enumeration carried out under reasonable rules and regulations by the annexing municipality; provided, that the court shall not accept such estimates if the petitioners demonstrate that such estimates are in error in the amount of ten per cent (10%) or more.
- (2) As to total area if the estimate is based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable map used for official purposes by a governmental agency, unless the petitioners on appeal demonstrate that such estimates are in error in the amount of five per cent (5%) or more.
- (3) As to degree of land subdivision, if the estimates are based on an actual survey, or on county tax maps or records, or on aerial photographs, or on some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of five per cent (5%) or more.

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§ 160-453.23. Effect of part on other laws. -- From and after July 1, 1959, this part shall be in full force and effect with respect to all municipalities having a population of five thousand (5,000) or more persons according to the last preceding federal decennial census. The provisions of part 1 of article 36 of chapter 160 of the General Statutes of North Carolina shall remain in full force and effect with respect to such municipalities as an alternative procedure until June 30, 1962. From and after July 1, 1962, all the provisions of part 1 of article 36 of chapter 160 of the General Statutes of North Carolina, with the exception of § 160-452 as it exists at the time of the passage of this part or as it may be amended at this session of the General Assembly shall be repealed. Insofar as the provisions of this part are inconsistent with the provisions of any other law, the provisions of this part shall be controlling.

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§ 160-453.24. Counties excepted from Part; Part 1 continued for such counties. -- The provisions of this part shall not apply to the following counties: Columbus, Halifax, Pender and Perquimans.

Notwithstanding any other provisions of this part, part 1 of article 36 of chapter 160 of the General Statutes of North Carolina and specifically G.S. 160-452, as the same may be reqrritten or amended, shall remain in full force and effect as to the counties herein named.

(Note: there are no local act or legislative restraints on Forest City regarding annexation)

